

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

ORDER DIRECTING PLAINTIFF TO FILE A NON-PRISONER
IN FORMA PAUPERIS AFFIDAVIT OR PAY
THE REMAINING PORTION OF THE CIVIL FILING FEE

On June 5, 2017, Plaintiff Cedrick Whiteside, who was, at the time, incarcerated at the Henderson County Criminal Justice Complex in Lexington, Tennessee, filed a *pro se* civil complaint and a motion for leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) The Court issued an order on June 14, 2017, granting leave to proceed *in forma pauperis* and assessing the civil filing fee pursuant to the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 7.) However, on December 20, 2018, Whiteside notified the Clerk he had been released. (ECF No. 23.)

Under the PLRA, a prisoner bringing a civil action must pay the full filing fee required by 28 U.S.C. § 1914(a). The statute merely provides the prisoner the opportunity to make a “downpayment” of a partial filing fee and pay the remainder in monthly installments. 28 U.S.C. § 1915(b). However, in this case, only \$3.23 of the filing fee was

paid prior to Whiteside's release. Under these circumstances, the Sixth Circuit has held "the obligation to pay the remainder of the fees is to be determined solely on the question of whether the released individual qualifies for pauper status." *McGore v. Wrigglesworth*, 114 F.3d 601, 613 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Whiteside must either renew his pauper status or pay the remainder of the civil filing fee. Therefore, he is ORDERED to submit, on or before June 20, 2019, either a properly completed and signed non-prisoner *in forma pauperis* affidavit or the remaining \$396.77 of the \$400 civil filing fee.¹ The Clerk shall mail Whiteside a copy of the non-prisoner *in forma pauperis* affidavit form along with this order.

Failure to comply with this order in a timely manner will result in the dismissal of this action without further notice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ The civil filing fee is \$350. 28 U.S.C. § 1914(a). Under § 1914(b) and the Schedule of Fees set out following the statute, an administrative fee of \$50 for filing any civil case also is required. Because that additional \$50 fee does not apply if leave to proceed *in forma pauperis* is granted, only the \$350 fee was assessed in the June 24, 2017, order. However, if Whiteside does not renew his pauper status he will be responsible for the entire \$400 fee.